

AMENDED IN SENATE SEPTEMBER 2, 2003

AMENDED IN SENATE JULY 16, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 35**

**Introduced by Assembly Member Wiggins-Vargas**  
(Principal coauthor: Senator Ortiz)

December 2, 2002

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~~An act to amend Sections 65352 and 65400 of, and to repeal Section 65307 of, the Government Code, relating to local planning. An act to add Section 42238.1465 to the Education Code, to add Article 9.5 (commencing with Section 1338.10) to Chapter 2 of Division 2 of, the Health and Safety Code, and to amend Section 30166 of, to add Article 4 (commencing with Section 30133) to Chapter 2 of Part 13 of Division 2 of, the Revenue and Taxation Code, and to amend Section 80.5 of Chapter 230 of the Statutes of 2003, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 35, as amended, ~~Wiggins-Vargas. Local planning agencies: duties~~ Cigarette and tobacco products excise tax: health programs: law enforcement.

(1) Existing law provides for the licensure and regulation of health facilities, administered by the State Department of Health Services. Existing law requires the department to establish minimum nurse-to-patient ratios for specified long-term health care facilities.

*This bill would establish the Rural Hospital Supplemental Payments Program to assist eligible rural hospitals, as defined, with the costs of meeting new hospital staffing requirements in medical and surgical units.*

*(2) The Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates, including additional taxes imposed under the Tobacco Tax and Health Protection Act of 1988 (Proposition 99), and the California Families and Children Act of 1998 (Proposition 10).*

*This bill would impose an additional tax on the distribution of cigarettes at the rate of \$0.075 for each cigarette distributed. The revenues collected from these additional taxes would be deposited in the Cigarette and Tobacco Products Excise Tax Fund that would be created by this bill as a continuously appropriated fund.*

*This bill, for the 2003–04 fiscal year and each fiscal year thereafter, would allocate 13% of moneys in the Cigarette and Tobacco Products Excise Tax Fund to the State Department of Health Services for expenditure to fund tobacco prevention, control, and cessation programs, to be allocated according to a formula specified in the bill. The bill would also require that, for the 2003–04 fiscal year and each fiscal year thereafter, a prescribed amount of moneys from the fund be deposited in the Cigarette and Tobacco Products Surtax Fund and the Breast Cancer Fund to reimburse any losses that occur as a result of the imposition of the tobacco products tax that would be established under the bill.*

*This bill, for the 2003–04 fiscal year and each fiscal year thereafter, would provide that remaining moneys in the Cigarette and Tobacco Products Excise Tax Fund shall be allocated, to the extent funds are available, as follows:*

*(a) Three percent to the State Department of Health Services for the programs described in (1).*

*(b) The sum of \$18,500,000, or the amount that is available if \$18,500,000 is not remaining in the fund, to the Controller for allocation to county sheriffs' departments, as specified, to enhance law enforcement efforts in specified counties.*

*(c) To the Office of Criminal Justice Planning to supplement funding provided in a specified item of the Budget Act of 2003 for vertical prosecution block grants.*

*(d) To the State Department of Health Services in an amount necessary to fund any increase in Medi-Cal reimbursement rates for*



*hospitals not under contract with the California Medical Assistance Commission that provide inpatient services to Medi-Cal recipients, as provided pursuant to (5).*

*(e) The moneys remaining in the fund after these allocations would be deposited in the General Fund and available for appropriation by the Legislature.*

*(3) Existing law requires that stamp and meter register settings be sold at their denominated values, less 0.85%, to licensed distributors.*

*This bill would exclude from that provision the additional taxes on cigarettes and tobacco products proposed by this bill.*

*(4) Existing law establishes a minimum funding requirement for school districts and community college districts pursuant to a formula established by Section 8 of Article XVI of the California Constitution. Other existing law requires the Superintendent of Public Instruction to compute a revenue limit equalization adjustment for each school district based on the size and type of the school district. Existing law also provides that for the 2003–04 and 2004–05 fiscal years, the revenue limit for each school district shall be reduced by a specified deficit factor.*

*This bill would require the Department of Finance, by December 1, 2003, to estimate the extent to which the funds generated by the taxes imposed by this act result in an increase in the minimum funding guarantee for school districts and community college districts for the 2003–04 fiscal year pursuant to Section 8 of Article XVI of the California Constitution.*

*The bill would appropriate from the General Fund to the State Department of Education the amount determined by the Department of Finance pursuant to the above provision, of which 50% shall be allocated to reduce the revenue limit deficit factor for school districts, as specified, and 50% shall be allocated for the purposes of revenue limit equalization adjustments, as specified. The bill would require the State Department of Education to distribute these funds to school districts and county offices of education at the first principal apportionment.*

*The bill would also require the Department of Finance, by May 15, 2004, to revise its estimate of the increase in the minimum funding guarantee for school districts and community college districts for the 2003–04 fiscal year resulting from the taxes imposed by this act, and to adjust accordingly the above appropriation. The bill would require the*



*State Department of Education to adjust payments to school districts and county offices of education at the second principal apportionment.*

*(5) Existing law provides for the Medi-Cal program, administered by the department, under which qualified low-income persons are provided with health care services, including prescription benefits.*

*Existing law also provides that the Medi-Cal reimbursement rates in effect for the 2003–04 fiscal year for hospitals not under contract with the California Medical Assistance Commission that provide inpatient services to Medi-Cal recipients shall remain the same for the entire 2004–05 fiscal year and declares that this is the intent of the Legislature*

*This bill would create an exception to existing law as to hospitals that were noncontracting as of October 1, 2003, and would, with respect to these hospitals, provide that the department may increase rates. This bill would also provide that any increase in Medi-Cal reimbursement rates for hospitals not under contract with the commission that provide services to Medi-Cal recipients shall be funded from the Cigarette and Tobacco Products Excise Tax Fund that is created by this bill.*

*(6) By imposing a new tax, this bill would result in a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.*

*(7) The bill would declare that it is to take effect immediately as an urgency statute.*

~~(1) The Planning and Zoning Law requires the planning agency, after a legislative body has adopted all or part of a general plan, to provide an annual report, on or before October 1 of each year, to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development on the status of the general plan and progress in meeting the community's share of regional housing needs. The report is required to be prepared through forms and definitions adopted by the Department of Housing and Community Development.~~

~~The bill would require the report to include the degree to which the approved general plan complies with specified guidelines for the preparation of the mandatory elements of the general plan and the date of the last revision to the general plan. By imposing new duties on planning agencies, the bill would create a state-mandated local program.~~



~~(2) The Planning and Zoning Law also requires the planning agency prior to action by a legislative body of a city or county to adopt or substantially amend a general plan, to refer the proposed action to specified entities, including, among other entities, any city or county within or abutting the area covered by the proposal and any special district that may be significantly affected by the proposed action, as determined by the planning agency.~~

~~This bill would create an exception to the referral specified above if the planning agency has consulted with the city, county, or special district pursuant to other specified provisions of law.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: ~~majority~~ <sup>2/3</sup>. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: ~~yes~~ no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 65307 of the Government Code is~~  
2     ~~SECTION 1. Section 42238.1465 is added to the Education~~  
3     ~~Code, to read:~~  
4     ~~42238.1465. (a) By December 1, 2003, the Department of~~  
5     ~~Finance shall estimate the extent to which the funds generated by~~  
6     ~~the taxes imposed by this act result in an increase in the minimum~~  
7     ~~funding guarantee for school districts and community college~~  
8     ~~districts for the 2003–04 fiscal year pursuant to Section 8 of Article~~  
9     ~~XVI of the California Constitution.~~  
10    ~~(b) The amount determined by the Department of Finance~~  
11    ~~pursuant to subdivision (a) is hereby appropriated from the~~  
12    ~~General Fund to the State Department of Education. Fifty percent~~  
13    ~~of the funds appropriated shall be allocated to reduce the revenue~~  
14    ~~limit deficit factor specified in Section 42238.146 and Section~~  
15    ~~2558.46, and 50 percent shall be allocated for the purposes of~~  
16    ~~revenue limit equalization adjustments computed pursuant to~~  
17    ~~Section 42238.44. The State Department of Education shall~~  
18    ~~distribute these funds to school districts and county offices of~~  
19    ~~education at the first principal apportionment.~~

1 (c) *The Department of Finance shall revise its estimate of the*  
2 *increase in the minimum funding guarantee for school districts*  
3 *and community college districts for the 2003–04 fiscal year*  
4 *resulting from the taxes imposed by this act by May 15, 2004, and*  
5 *the appropriation made by subdivision (b) shall be adjusted*  
6 *accordingly. The State Department of Education shall adjust*  
7 *payments to school districts and county offices of education at the*  
8 *second principal apportionment.*

9 SEC. 2. *Article 9.5 (commencing with Section 1338.10) is*  
10 *added to Chapter 2 of Division 2 of the Health and Safety Code,*  
11 *to read:*

12  
13 *Article 9.5. Rural Hospital Supplemental Payments Program*  
14

15 1338.10. (a) *The Rural Hospital Supplemental Payments*  
16 *Program is hereby established for the purpose of assisting rural*  
17 *hospitals with the costs of meeting new hospital staffing*  
18 *requirements in medical and surgical units.*

19 (b) *The department shall establish procedures under which*  
20 *rural hospitals may apply for supplemental payments.*

21 (c) *The department may adopt emergency regulations to*  
22 *implement this section. The Office of Administrative Law shall*  
23 *consider those regulations to be necessary for the immediate*  
24 *preservation of the public peace, health and safety, and general*  
25 *welfare for purposes of Section 11349.6 of the Government Code.*  
26 *Notwithstanding the 120-day limitation in subdivision (e) of*  
27 *Section 11346.1 of the Government Code, the emergency*  
28 *regulations adopted or amended pursuant to this subdivision shall*  
29 *be repealed 180 days after the effective date of the regulations,*  
30 *unless the department readopts those regulations, in whole or in*  
31 *part, in compliance with Chapter 3.5 (commencing with Section*  
32 *11340) of Part 1 of Division 3 of Title 2 of the Government Code.*

33 (d) *For purposes of this section, “rural hospital” means a*  
34 *small and rural hospital as defined in Section 124840.*

35 SEC. 3. *Article 4 (commencing with Section 30133) is added*  
36 *to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation*  
37 *Code, to read:*

38



Article 4. Tobacco Products Excise Tax

30133. In addition to the taxes imposed upon the distribution of cigarettes by Article 1 (commencing with Section 30101), Article 2 (commencing with Section 30121), Article 3 (commencing with Section 30131), and any other taxes in this chapter, there shall be imposed an additional excise tax upon every distributor of cigarettes at the rate of seven and one-half cents (\$0.075) for each cigarette that is distributed on and after the operative date of this article.

30135. (a) Every dealer and wholesaler, for the privilege of holding or storing cigarettes for sale, use, or consumption, shall pay a floor stock tax for each cigarette in his or her possession or under his or her control in this state at 12:01 a.m. on the operative date of this article, at the rate of seven and one-half cents (\$0.075) for each cigarette.

(b) Every dealer and wholesaler shall file a return with the board within 45 days following the operative date of this article, on a form prescribed by the board, showing the number of cigarettes in his or her possession or under his or her control at 12:01 a.m. on the operative date of this article. The amount of tax shall be computed and shown on the return.

(c) Every licensed cigarette distributor, for the privilege of distributing cigarettes and for holding or storing cigarettes for sale, use, or consumption, shall pay a cigarette indicia adjustment tax for each California cigarette tax stamp that is affixed to any package of cigarettes and for each unaffixed California cigarette tax stamp in his or her possession or under his or her control at 12:01 a.m. on the operative date of this article, at the following rates:

(1) One dollar and eighty-seven and one-half cents (\$1.875) for each stamp bearing the designation "25."

(2) One dollar and fifty cents (\$1.50) for each stamp bearing the designation "20."

(3) Seventy-five cents (\$0.75) for each stamp bearing the designation "10."

(d) Every licensed cigarette distributor shall file a return with the board within 45 days of the operative date of this article, on a form prescribed by the board, showing the number of stamps

1 *described in paragraphs (1), (2), and (3) of subdivision (c). The*  
2 *amount of tax shall be computed and shown on the return.*

3 *(e) The taxes required to be paid by this section are due and*  
4 *payable within 45 days of the operative date of this article.*  
5 *Payments shall be made by remittances payable to the board and*  
6 *the payments shall accompany the forms required to be filed by this*  
7 *section.*

8 *(f) Any amount required to be paid by this section that is not*  
9 *timely paid shall bear interest at the rate and by the method*  
10 *established pursuant to Section 30202 from the date that occurs 45*  
11 *days following the operative date of this article, until paid, and*  
12 *shall be subject to determination, and redetermination, and any*  
13 *penalties provided with respect to determinations and*  
14 *redeterminations.*

15 *30136. (a) Except for payments of refunds made pursuant to*  
16 *Article 1 (commencing with Section 30361) of Chapter 6, and*  
17 *reimbursement of the State Board of Equalization for expenses*  
18 *incurred in the administration and collection of the excise taxes*  
19 *imposed by this article, all moneys raised pursuant to the taxes*  
20 *imposed by this article, except for the amount determined by the*  
21 *Department of Finance pursuant to subdivision (a) of Section*  
22 *42238.1465 of the Education Code, shall be transmitted by the*  
23 *board to the Treasurer for deposit in the Cigarette and Tobacco*  
24 *Products Excise Tax Fund, which is hereby created in the State*  
25 *Treasury. The Cigarette and Tobacco Products Excise Tax Fund is*  
26 *continuously appropriated without regard to fiscal years,*  
27 *notwithstanding Section 13340 of the Government Code, to the*  
28 *following entities and funds for the following purposes:*

29 *(1) For the 2003–04 fiscal year and each fiscal year thereafter,*  
30 *13 percent of the moneys in the fund is allocated to the State*  
31 *Department of Health Services for expenditure to fund tobacco*  
32 *prevention, control, and cessation programs. These funds shall be*  
33 *allocated according to the following formula:*

34 *(A) Thirty-seven percent shall be deposited in the Health*  
35 *Education Account of the Cigarette and Tobacco Products Surtax*  
36 *Fund, created by Section 30122, to be used for tobacco prevention*  
37 *and control purposes.*

38 *(B) Twenty-three percent shall be allocated for payment to*  
39 *medical and public health providers offering treatments and*  
40 *services to aid residents in quitting smoking.*



(C) Fourteen percent shall be allocated for innovative programs focusing on prevention and cessation strategies for state demographic populations with the highest smoking rates.

(D) Nine percent shall be allocated for payment to enforce state tobacco control laws.

(E) Six percent shall be allocated for tobacco education programs aimed at youth and young adults through school-based programs.

(F) Eleven percent shall be deposited in the Research Account of the Cigarette and Tobacco Products Surtax Fund created by Section 30122.

(2) For the 2003–04 fiscal year and each fiscal year thereafter, moneys from the Cigarette and Tobacco Products Excise Tax Fund shall be deposited in the Cigarette and Tobacco Products Surtax Fund, established pursuant to Section 30122, and the Breast Cancer Fund, established pursuant to Section 30461.6, in the amount and at the times determined under subdivision (b), to reimburse any losses that occur as a result of the imposition of the cigarette excise tax pursuant to this article.

(3) The remainder of the moneys in the Cigarette and Tobacco Products Excise Tax Fund after allocation pursuant to paragraphs (1) and (2), shall be allocated, to the extent funds are available, to the following programs:

(A) For the 2003–04 fiscal year and each fiscal year thereafter, 3 percent is allocated to the State Department of Health Services for expenditure to fund the Rural Hospitals Supplemental Payments Program established pursuant to Article 9.5 (commencing with Section 1338.10) of Chapter 2 of Division 2 of the Health and Safety Code.

(B) (i) For the 2003–04 fiscal year and each fiscal year thereafter, the sum of eighteen million five hundred thousand dollars (\$18,500,000) is allocated to the Controller for allocation to county sheriffs' departments to enhance law enforcement efforts in the following counties according to the following schedule:

(1) Alpine County . . . . .	500,000
(2) Amador County . . . . .	500,000
(3) Butte County . . . . .	500,000
(4) Calaveras County . . . . .	500,000
(5) Colusa County . . . . .	500,000

1	(6) Del Norte County .....	500,000
2	(7) El Dorado County .....	500,000
3	(8) Glenn County .....	500,000
4	(9) Humboldt County .....	500,000
5	(10) Imperial County .....	500,000
6	(11) Inyo County .....	500,000
7	(12) Kings County .....	500,000
8	(13) Lake County .....	500,000
9	(14) Lassen County .....	500,000
10	(15) Madera County .....	500,000
11	(16) Marin County .....	500,000
12	(17) Mariposa County .....	500,000
13	(18) Mendocino County .....	500,000
14	(19) Merced County .....	500,000
15	(20) Modoc County .....	500,000
16	(21) Mono County .....	500,000
17	(22) Napa County .....	500,000
18	(23) Nevada County .....	500,000
19	(24) Placer County .....	500,000
20	(25) Plumas County .....	500,000
21	(26) San Benito County .....	500,000
22	(27) San Luis Obispo County .....	500,000
23	(28) Santa Cruz County .....	500,000
24	(29) Shasta County .....	500,000
25	(30) Sierra County .....	500,000
26	(31) Siskiyou County .....	500,000
27	(32) Sutter County .....	500,000
28	(33) Tehama County .....	500,000
29	(34) Trinity County .....	500,000
30	(35) Tuolumne County .....	500,000
31	(36) Yolo County .....	500,000
32	(37) Yuba County .....	500,000

33

34 (ii) If the sum of eighteen million five hundred thousand dollars  
35 (\$18,500,000) is not available in the fund for allocation pursuant  
36 to clause (i) in any fiscal year, there shall be allocated to the  
37 Controller the sum that is available, which shall be allocated to the  
38 counties specified in clause (i) on a prorated basis, based on the  
39 allocations set forth in clause (i).

1     (iii) Funds allocated pursuant to this subparagraph shall be  
2     used to supplement rather than supplant existing law enforcement  
3     resources.

4     (C) Notwithstanding subdivision (c) of Section 30070 of the  
5     Government Code, for the 2003–04 fiscal year and each fiscal year  
6     thereafter, the sum of eight million one hundred seventy-six  
7     thousand dollars (\$8,176,000) is allocated to the Office of  
8     Criminal Justice Planning to supplement funding provided in Item  
9     8100-101-0001 of the Budget Act of 2003 for vertical prosecution  
10    block grants.

11    (D) For the 2003–04 fiscal year and each fiscal year thereafter,  
12    funds are allocated to the State Department of Health Services in  
13    an amount necessary to fund any increase in Medi-Cal  
14    reimbursement rates for hospitals not under contract with the  
15    California Medical Assistance Commission that provide inpatient  
16    services to Medi-Cal recipients, as provided pursuant to Section  
17    5 of the act that added this section.

18    (E) For the 2003–04 fiscal year and each fiscal year thereafter,  
19    any moneys remaining in the fund after the allocations pursuant  
20    to subparagraphs (A) to (D), inclusive, shall be deposited in the  
21    General Fund and available for appropriation by the Legislature.

22    (b) (1) The State Board of Equalization shall determine within  
23    one year of the enactment of this article the effect that additional  
24    taxes imposed on cigarettes pursuant to this article has had on the  
25    consumption of cigarettes and tobacco products in this state. To the  
26    extent that a decrease in consumption is determined by the State  
27    Board of Equalization to be the direct result of additional taxes  
28    imposed by this act, the State Board of Equalization shall  
29    determine the fiscal effect that the decrease in consumption has  
30    had on programs funded pursuant to the Cigarette and Tobacco  
31    Products Surtax Fund, established pursuant to Section 30122, and  
32    the Breast Cancer Fund, established pursuant to Section 30461.6.

33    (2) For the 2003–04 fiscal year and each fiscal year thereafter,  
34    the Board of Equalization shall determine the amount of the  
35    decrease in revenue available to the funds and programs described  
36    in paragraph (1) that is the direct result of the imposition of the tax  
37    under this article. This amount shall be transferred from the  
38    Cigarette and Tobacco Products Excise Tax Fund and deposited in  
39    the Cigarette and Tobacco Products Surtax Fund and Breast  
40    Cancer Fund, as appropriate, at any time it is determined

1 *necessary by the Board of Equalization to reimburse revenue*  
2 *losses that are a consequence of this article and to further the intent*  
3 *of this subdivision and paragraph (2) of subdivision (a).*

4 *30137. Notwithstanding any other provision of the act adding*  
5 *this article, this article shall become operative on the date that is*  
6 *10 business days following the date that the act adding this article*  
7 *takes effect.*

8 *SEC. 4. Section 30166 of the Revenue and Taxation Code is*  
9 *amended to read:*

10 *30166. ~~Stamps~~—(a) Except as provided in subdivision (b),*  
11 *stamps and meter register settings shall be sold at their*  
12 *denominated values, less 0.85 percent, to licensed distributors.*

13 *(b) Stamps and meter register settings for the taxes imposed*  
14 *pursuant to Article 4 (commencing with Section 30133) of Chapter*  
15 *2 shall be sold at their denominated values to licensed distributors.*

16 *(c) Payment for stamps or meter register settings shall be made*  
17 *at the time of purchase, provided that a licensed distributor, subject*  
18 *to the conditions and provisions of this article, may be permitted*  
19 *to defer payments therefor.*

20 *SEC. 5. Section 80.5 of Chapter 230 of the Statutes of 2003 is*  
21 *amended to read:*

22 *Sec. 80.5. (a) The Legislature finds and declares that the state*  
23 *faces a fiscal crisis that requires unprecedented measures to be*  
24 *taken to reduce General Fund expenditures. Notwithstanding any*  
25 *other provision of law or regulation, the Medi-Cal reimbursement*  
26 *rates in effect for the 2003–04 fiscal year for hospitals, not under*  
27 *contract with the California Medical Assistance Commission,*  
28 *providing inpatient services to Medi-Cal recipients shall remain*  
29 *the same for the entire 2004–05 fiscal year. ~~It year, except that with~~*  
30 *respect to a hospital to which this section applies that was*  
31 *noncontracting on October 1, 2003, the department may increase*  
32 *rates.*

33 *(b) It is the intent of the Legislature that the California Medical*  
34 *Assistance Commission freeze all Medi-Cal reimbursement rates*  
35 *paid to hospitals for inpatient services at their 2003–04 contract*  
36 *rate, or at a lower ~~level~~ rate, whichever is applicable based on*  
37 *contract negotiations.*

38 *(c) Any increase in Medi-Cal reimbursement rates for hospitals*  
39 *not under contract with the California Medical Assistance*  
40 *Commission that provide inpatient services to Medi-Cal recipients*

shall be funded, pursuant to subparagraph (D) of paragraph (3) of subdivision (a) of Section 30136 of the Revenue and Taxation Code, from the Cigarette and Tobacco Products Excise Tax Fund, to the extent that moneys are available.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to preserve funding for health care and law enforcement programs at the earliest time possible, it is necessary that this act take effect immediately.

~~repealed.~~

~~SEC. 2.—Section 65352 of the Government Code is amended to read:~~

~~65352.—(a) Prior to action by a legislative body to adopt or substantially amend a general plan, the planning agency shall refer the proposed action to all of the following entities:~~

~~(1) Any city or county, within or abutting the area covered by the proposal, and any special district that may be significantly affected by the proposed action, as determined by the planning agency, unless the planning agency has consulted with the city, county, or special district pursuant to Section 21153 of the Public Resources Code.~~

~~(2) Any elementary, high school, or unified school district within the area covered by the proposed action.~~

~~(3) The local agency formation commission.~~

~~(4) Any area wide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.~~

~~(5) Any federal agency if its operations or lands within its jurisdiction may be significantly affected by the proposed action, as determined by the planning agency.~~

~~(6) Any public water system, as defined in Section 116275 of the Health and Safety Code, with 3,000 or more service connections, that serves water to customers within the area covered by the proposal. The public water system shall have at least 45 days to comment on the proposed plan, in accordance with subdivision (b), and to provide the planning agency with the information set forth in Section 65352.5.~~

~~(7) The Bay Area Air Quality Management District for a proposed action within the boundaries of the district.~~

~~(b) Each entity receiving a proposed general plan or amendment of a general plan pursuant to this section shall have 45 days from the date the referring agency mails it or delivers it in which to comment unless a longer period is specified by the planning agency.~~

~~(c) (1) This section is directory, not mandatory, and the failure to refer a proposed action to the other entities specified in this section does not affect the validity of the action, if adopted.~~

~~(2) To the extent that the requirements of this section conflict with the requirements of Chapter 4.4 (commencing with Section 65919), the requirements of Chapter 4.4 shall prevail.~~

~~SEC. 3. Section 65400 of the Government Code is amended to read:~~

~~65400. After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:~~

~~(a) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.~~

~~(b) Provide by October 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:~~

~~(1) The status of the plan and progress in its implementation.~~

~~(2) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.~~

~~The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2).~~



1     ~~(3) The degree to which the approved general plan was~~  
2     ~~developed based on the guidelines developed and adopted~~  
3     ~~pursuant to Section 65040.2.~~

4     ~~SEC. 4. It is the intent of the Legislature that the amendments~~  
5     ~~to Section 65400 of the Government Code made by this act correct~~  
6     ~~a drafting error made in the amendments to that section in Chapter~~  
7     ~~1235 of the Statutes of 1994 (Assembly Bill 51).~~

8     ~~SEC. 5. No reimbursement is required by this act pursuant to~~  
9     ~~Section 6 of Article XIII B of the California Constitution because~~  
10    ~~this act provides for offsetting savings to local agencies or school~~  
11    ~~districts that result in no net costs to the local agencies or school~~  
12    ~~districts, within the meaning of Section 17556 of the Government~~  
13    ~~Code.~~

